

REMARKS

Claims 1-3, 8-16, 20 and 21 are pending. The claims have been noted as allowed excepting reissue-related matters as outlined in the Office Action.

Based on the contents of the Office Action, it appears as though the Examiner is responding solely to our December 2, 2004 response to the first Office Action and is not considering our later filed declaration, filed on March 2, 2005. Applicant submits that the declaration submitted on March 2, 2005 complies with the required statutes and code.

The timing of the case is as follows: (1) on September 28, 2004 a first Office Action was issued rejecting a number of claims and requesting the reissue oath/declaration; (2) on December 2, 2004 a response to the first Office Action addressing the claim rejections was filed; (3) on March 2, 2005, a declaration in response to the first Office Action was filed; (4) on March 28, the Final Office Action was issued. In view of the timing, Applicant believes it is very possible that the Examiner did not receive the later filed declaration before preparing the Final Office Action. The Final Office Action refers only to the Applicant's amendment filed on December 2, 2004 and makes no mention or acknowledgement of the declaration filed on March 2, 2005.

Applicant requests that the Examiner consider the declaration filed on March 2, 2005. The Examiner requests that Applicant submit statements corresponding to 37 CFR § 1.175(a)(1) and (2), as well as MPEP § 1414, Applicant submits that these statements may be found in Sections 5 and 7 of the reissue declaration filed on March 2, 2005. (A copy of the declaration filed on March 2, 2005 and the acknowledgement from the USPTO has been included for reference).

In view of the foregoing, it is submitted that this application is in condition for allowance. Favorable consideration and prompt allowance of the application are respectfully requested.

The Examiner is invited to telephone the undersigned if the Examiner believes it would be useful to advance prosecution.

Respectfully submitted,



Kimberly K. Baxter
Registration No. 40,504

Customer No. 24113
Patterson, Thuente, Skaar & Christensen, P.A.
4800 IDS Center
80 South 8th Street
Minneapolis, Minnesota 55402-2100
Telephone: (612) 349-5750